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# Meese Hearings and a Flawed Probe Revive Questions About 'Debategate'

By Bob Woodward

EDWIN MEESE III's confirmation hearings appear to have landed Meese in hot water. Potentially more important, the Meese hearings have revived the sensitive issue known as "Debategate," which the administration tried to bury just three weeks ago.

On Feb. 23 the Reagan Justice Department issued its final report on its investigation into how Jimmy Carter's briefing book for his debate with Ronald Reagan and other sensitive materials from the Carter campaign fell into the hands of Reagan campaign officials. This report said there was no credible evidence of any criminal behavior.

However, interviews with numerous officials who worked in the Carter and Reagan campaigns suggest that the assurances of the Justice Department that it conducted "an intensive investigation" into Debategate are, at best, disputable. Though the FBI interviewed "over 220 individuals" in the course of this inquiry, the list of potentially relevant people it did not interview is impressive.

For example, the FBI did not talk to Hamilton Jordan, Carter's chief of staff and campaign manager; James T. Lynn and Loren Smith, the two top lawyers for the Reagan campaign; Gerald Rafshoon, Carter's debate coordinator, or any of a dozen others who surely would have been questioned in an aggressive probe. [See story on Page C4.]

Moreover, government officials revealed last week that far from maintaining an arms-length relationship to this politically sensitive inquiry, Attorney General William French Smith — Ronald Reagan's personal lawyer for 14 years and part of his "Kitchen Cabinet" — consulted regularly with FBI Director William H. Webster about the investigation.

A lawsuit pending in U.S. District Court

here could well lead to the appointment of a special prosecutor to investigate Debategate, something that should have happened months ago. If the lawsuit does not produce this result, then the demands of the Senate Judiciary Committee might.

New information released in the Meese hearings last week was a powerful reminder that the repeated lapses of memory claimed by senior officials of the Reagan campaign — many of whom are now high government officials — strain credulity.

The stack of documents that came out last week brought earlier reports of their exist-

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ence vividly to life. Here were the actual memos passed around the Reagan campaign's high command, many of them labeled with provocative language: "our White House source;" "from reliable White House mole;" "the original Jimmy Carter staff source." One memo forwarded to Meese said the commander of the Strategic Air Command, an Air Force General, wanted to "blow Jimmy Carter out of the water." It was marked "sensitive in nature, confidential."

Debategate is by no means Watergate, but it seems strange after all the country has been through since 1972 that a matter of this kind could still be investigated in a way that raises these serious questions. Indeed, in 1978 Congress passed the Ethics in Government Act expressly to prevent this from happening. That act says when the attorney general re-

ceives "credible information" of illegal activity by high government officials, he must order a 90-day preliminary investigation, and then a determination must be made whether to appoint a special prosecutor.

In a civil suit filed by a law professor, U.S. District Court Judge Harold H. Greene ruled two weeks ago that the Justice Department "appears to have simply ignored" the requirements of the act in the briefing book investigation. Greene noted that "the ethics act was enacted in the aftermath of Watergate to establish procedures for the avoidance of the actual or perceived conflicts of interest which may arise when the attorney general investigates alleged criminal wrongdoing by other high government officials."

The act specifically requires the disqualification of the attorney general or other senior Justice officials if there is any "political conflict of interest, or the appearance thereof" in any case.

Instead of following the act's requirement that it conduct a preliminary 90-day investigation, the Justice Department decided to complete its own inquiry without taking up the question of whether to appoint a special prosecutor. It was the findings of this investigation that were released three weeks ago.

The FBI confirmed last week that Webster and Smith had discussed the Debategate inquiry while it was going on. Webster himself declined to be interviewed on the issue, but he did discuss it three times with FBI spokesman William H. Baker, who conveyed this message: "Judge Webster was comfortable in discussing the matter with the attorney general. . . . We are part of the Justice Department, that is the normal channel of communication, especially on a matter of interest to both sides of the street" — Pennsylvania Avenue, where the Justice Department and FBI headquarters are opposite each other.

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Baker said, "I don't want to go into the number of discussions. I don't want to go into specifics, but the judge has confidence in his own integrity and that of the attorney general."

Webster provided a copy of a July 1, 1983, memo he issued internally about the briefing book case. It says that Webster wanted "to be fully and timely advised of all developments," including "all scheduled interviews of senior White House officials and senior Carter administration officials."

In addition he wrote to his senior assistants that "only mature seasoned special agents are to be used for such interviews." He said that "the bureau is 'party blind.' Nothing in the handling of this investigation must be allowed to give the appearance of targeting on the one hand or forbearance on the other."

Webster clearly saw the political sensitivity of the case — exactly the type of inquiry that is supposed to be handled under the 1978 ethics act. FBI spokesman Baker said the Justice Department made the decision not to apply the '78 act in this case.

Justice Department spokesman John Russell said Friday that the department did not feel the briefing book allegations necessarily were directed at any high officials and accordingly the ethics act was not applied.

The public report the Justice Department issued Feb. 23, closing the case is revealing. It is a skimpy three-page plea of no contest that contains one memorable line about the disagreements in recollections of several top Reagan administration officials. (For example, White House Chief of Staff James A. Baker III said flatly that he received the Carter debate briefing book from William Casey, now director of the CIA. Casey has said just as flatly that he never saw the briefing book and didn't give it to Baker.)

"Any seeming inconsistencies could be explained by differences in recollection or interpretation," the Justice Department's report said. This is astounding language from a law enforcement agency. It suggests that statements like, "I do not recall shooting my wife" or, "I interpret the alleged strangling as a suffocation" would be adequate defenses.

Two months into the FBI investigation

several interviews I conducted with Justice and FBI officials revealed that they had already concluded they would probably not solve the case.

One official said recently, "We never thought it was that big, not one-half or one-quarter as big as the media thought or wanted it to be." Another has said he just considered it another manifestation of the long-running "political" controversy between Baker and Casey.

After the special agent in charge of the Washington field office Theodore M. Gardner was transferred recently because he had spoken to a reporter (me) about the case, several officials said that this was one of the matters that Attorney General Smith and FBI Director Webster discussed. But spokesmen for neither will elaborate.

What was it that Gardner said or did? He confirmed information I had from others that the FBI wanted to give lie detector tests to some senior Reagan administration officials, including White House Chief of Staff Baker and CIA Director Casey. It is normal FBI policy that the head of each field office has discretion in how to deal with the press. Gardner evidently felt the conversation was proper; he recorded it in his office log.

One source says that a senior Justice Department official in the presence of Smith and Webster suggested that Gardner be fired, but Webster decided on the transfer instead. Another official says that Smith was furious about the leaks to the press in the case and Webster felt under pressure to at least transfer Gardner. About 30 other FBI or Justice Department officials were interviewed in a leak investigation to determine who else might have talked about the case.

That story I wrote last summer also mentioned a memo that allegedly was written by former campaign aide Max Hugel saying that information was coming to the Reagan campaign from the Carter campaign. The story said that the memo was addressed to Casey.

That turns out to be wrong. The memo was routed through Casey to Meese. After the story appeared the Justice Department went to great lengths to say no such Hugel memo existed. Newsweek reported speculation that someone was putting out "disinformation" and neither the FBI nor Justice Department

"could remember seeing anything like the memo the Post described."

The memo had been in Justice's files for months, and was obtained by the House subcommittee that investigated Debategate. The memo was released in the Meese confirmation hearings. Dated Aug. 11, 1980, it said, "Bill Casey asked me to have you review this memo which fell into my hands and to come up with some of our own strategy on this particular subject that might counteract this effort."

Attached was a Carter campaign memo outlining farm and rural strategy.

The stack of memos that has come out of the Meese confirmation hearings amounts to something considerably more than a single pilfering of debate papers. It includes at least a dozen examples of inside information from the Carter campaign coming into the Reagan operation.

Yet all these memos about sources and moles go largely unremembered by the campaign officials. Meese's response to four different memos is four different versions of "I don't recall." Yet such inside information from the opposition had to be tantalizing, useful, "hot."

During two days of Meese's confirmation hearing, one Senate staff member counted 79 times when Meese said he couldn't recall on a whole range of issues. This is not something to shrug off.

The Senate Judiciary Committee, which is considering Meese's confirmation, now has a special responsibility. Chairman Strom Thurmond (R-S.C.) announced last week that he is reopening the confirmation hearings. Thurmond said, "There will be no cover-up. . . . We want to know the truth."

Even though this is no Watergate, Debategate offers some troubling echoes of the past. There are questions about some top administration officials, about the attorney general's conduct of the inquiry, about the FBI's performance and about collective memory loss that is almost a contagion.

The public deserves a better job. Once again, a federal judge and a senior Southern Senate committee chairman may have to apply the pressure needed to get the system to work properly.